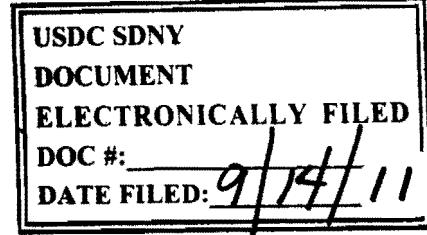


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



IN RE STATE STREET BANK AND TRUST
CO. FIXED INCOME FUNDS INVESTMENT
LITIGATION

MDL No. 1945

PRUDENTIAL RETIREMENT INSURANCE
AND ANNUITY CO.,

Plaintiff,
-against-

07 Civ. 8488 (RJH)

STATE STREET BANK AND TRUST
COMPANY, et al.,

Defendants.

ORDER

After reviewing the parties' submissions on the matter, the Court ORDERS that the jury trial of State Street Bank and Trust Company's ("State Street") defamation claim be severed from the bench trial of Prudential Retirement Insurance and Annuity Company's ("Prudential") breach of ERISA fiduciary duty claim and State Street's contribution claim. Pursuant to Federal Rule of Civil Procedure 42(b), "[f]or convenience, to avoid prejudice, or to expedite and economize, the court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third-party claims." Fed. R. Civ. P. 42(b). The decision to order separate trials rests in the discretion of the trial judge. *Amato v. City of Saratoga Springs*, 170 F.3d 311, 316 (2d Cir. 1999); *Boston Post Road Med. Imaging, P.C. v. Allstate Ins. Co.*, No. 03 Civ. 3923, 2004 WL 1586429, at *1 (S.D.N.Y. July 15, 2004). The complexity of the issues and

the risk of confusion to the jury counsel in favor of trying the defamation claim separately from the other two claims.

Trial of Prudential's claims will begin on October 11, 2011, rather than on October 3.

The Final Pre-Trial Conference remains scheduled for September 23, 2011.

SO ORDERED.

Dated: New York, New York
September 14, 2011



Richard J. Holwell
United States District Judge